

UNITED STATES DISTRICT COURT,
DISTRICT OF MASSACHUSETTS

Jonathan Tampico,
Plaintiff

v.

United States,
Defendant

Civil Action No.
04-12500-NMG

MOTION TO FORGIVE OR DELAY
COLLECTION OF COURT FEES

Plaintiff Jonathan Tampico humbly approaches the Court to request that the Court either forgive or delay his payment of Court fees, \$150- under PLRA.

As can be seen on the attached Inmate Transaction Receipt, dated July 6, 2005, Plaintiff is already paying 60% of all income in three PLRA deductions. The Court has seen in Plaintiff's six-month Commissary Account Statement, that his reliable income is about \$30- per month, leaving him only \$12- for stamps and other expenses. Adding another 20% encumbrance will reduce Plaintiff's usable

income to \$6⁰⁰ per month; an amount insufficient to cover the postage and copy costs necessary to pursue his legal burden.

To further exacerbate the situation, Plaintiff is also being assessed \$25⁰⁰ per quarter in Inmate Financial Responsibility Program payments on the fine from his conviction. This would reduce his income below zero. (See attached Receipt dated June 9, 2005)

Plaintiff occasionally receives funds in addition to his \$30⁻ per month, but these are gifts and cannot be depended upon. Plaintiff is not working and receives no monies from the B.C.P.

Plaintiff refers the Court to Lafauci v. Cunningham, 139 F. Supp. 2d 144, 147 (D. Mass. 2001) stating that simultaneous collection of fees depriving prisoners of all resources could "raise serious constitutional concerns" (from JLM vol.1, p.297, fn23), and to Whitfield v. Scully, 241 F. 3d 264, 276-78 (2d Cir. 2001) which capped PLRA recoupment at 40%. Plaintiff apologizes to the Court that his current incarceration in the SICC prevents

him from thoroughly researching First Circuit precedents on this issue.

CONCLUSION

For the above reasons, Plaintiff begs the Court to either forgive his payment of the #150 - PLRA Court fee, or to delay it until at least one of his other payments (5 SCHD09 will be first) is completed.

I declare under penalties of perjury that my statements in this Motion are true to the best of my knowledge.

Done this 20th of July, 2005
at USP Lewisburg, PA

My I.S.

Jonathan Tampico, 79426-079 Plaintiff Pro-Se
United States Penitentiary
P.O. Box 1000
Lewisburg, PA 17837-1000

Date: 07/06/2005
Time: 7:45:14 amFederal Bureau of Prisons
TRUFACS

Facility: LEW

Inmate Transaction Receipt
Limited Official Use**General Information**

Inmate Reg#: 79426079
Inmate Name: TAMPICO, JONATHAN M
 Current Site Name: Lewisburg USP
Housing Unit: UNIT 1

Living Quarters: Z04-311UDS
 Arrived From: SCH

Transferred To:
 Account Creation Date: 9/2/2003

Transaction Details

Date	Transaction Type	Fund Source Type	Sender Last Name	Ref#	Pymt#	Beginning Balance	Amount	Ending Balance
07/01/2005	Debt Encumb					\$6.00		
07/01/2005	Debt Encumb					\$6.00		
07/01/2005	Debt Encumb					\$6.00		
07/01/2005	Debt Encumb					\$12.00		
07/01/2005	Debt Encumb					\$12.00		
07/01/2005	Debt Encumb					\$12.00		
07/01/2005	<u>PLRA Payme</u>				5LEWD27 2577 7		(\$18.00)	\$54.29
07/01/2005	<u>PLRA Payme</u>				5LEWD26 2578 8		(\$18.00)	\$36.29
07/01/2005	<u>PLRA Payme</u>				5SCHD09 2579 6		(\$18.00)	\$18.29
Current Account Balance :						\$18.29		
Current Pre-Release Balance :						\$0.00		
Current Outstanding Negotiable Instrument Balance :						\$0.00		
Current Encumbered Balance :						\$0.00		
Current Administrative Hold Balance :						\$0.00		
Current Available Balance :						\$18.29		

Date: 06/09/2005
Time: 1:24:39 pm

Federal Bureau of Prisons
TRUFACS
Inmate Withdrawal Details Report
Limited Official Use

Transaction Report

Inmate Reg. Number:	79426079	Payee First Name:	
Inmate Name:	TAMPICO, JONATHAN	Payee Last Name:	BOP
Date/Time:	06/02/2005 10:06:05 AM	Payee Address 1:	
System Transaction #:	567708	Payee Address 2:	
Withdrawal Type:	<u>FRP Quarterly Pymt</u>	Payee City:	
Amount:	<u>(\$25.00)</u>	Payee State:	
Reference #:	IOS017	Payee Zip:	
YREGDOC #:		Payee Country:	
Payment #:		Bank Routing #:	
User Id:	LEW8106	Account #:	
Monthly Withdrawal:	No	Account Type:	
Check Memo:			
Comments:			